

MICHAEL A. CARDODOZ
Corporation Counsel

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 5130810
DATE FILED: 3/13/08 10:00 AM

Paul Marks
Phone: (212) 788-0884
Fax: (212) 788-8877
E-mail: pmarks@law.nyc.gov

March 4, 2008

BY FAX: 212-805-7924

Hon. Sidney H. Stein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: Almontaser v. New York City Department of Education, et al.
CV-07-10444 (SHS) (FM)

Dear Judge Stein:

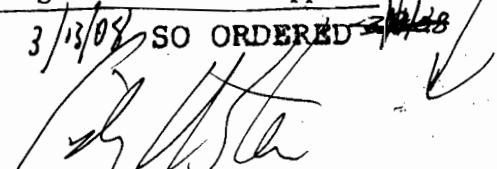
Yesterday, plaintiff served defendants with an Amended Complaint in this action, which was filed today. In addition to asserting the same First Amendment and Due Process claims contained in the original complaint that are being considered by the Second Circuit on plaintiff's appeal of Your Honor's denial of plaintiff's motion for a preliminary injunction, the Amended Complaint also asserts claims of race and religion discrimination under 42 U.S.C. §1981 and the New York State and New York City Human Rights Laws. In addition, apparently on February 29, 2008, plaintiff filed a charge of discrimination with the EEOC. Presumably, she intends to seek to add a Title VII claim once she receives a right-sue-letter.

In an Order dated December 14, 2007, Your Honor directed that "the time for defendants to answer or otherwise respond to the complaint is adjourned until 30 days following a determination by the U.S. Court of Appeals for the Second Circuit on plaintiff's pending appeal of this Court's Order dated December 5, 2007." To date, the Court of Appeals has not issued a decision.

Given that the First Amendment and Due Process claims in the amended complaint are likely to be addressed by the Court of Appeals, as they were the basis for plaintiff's motion for a preliminary injunction, defendants respectfully request that the Court's December 14, 2007 Order be deemed to apply to the Amended Complaint, and that defendants' time to respond to the Amended Complaint be adjourned until 30 days following the Court of Appeals'

determination of the currently pending appeal.

3/13/08 SO ORDERED


SIDNEY H. STEIN
U.S.D.J.

determination on plaintiff's appeal of the Court's December 5, 2007 Order.

Respectfully submitted,



Paul Marks
Assistant Corporation Counsel

cc: Alan Levine and Cynthia Rollings (by electronic mail)